

ESTTA Tracking number: **ESTTA197040**

Filing date: **03/07/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding.	91181841
Applicant	Defendant Gebr. Brasseler GmbH & Co. KG
Other Party	Plaintiff Brasseler USA, Inc.

Motion for Suspension in View of Civil Proceeding With Consent

The parties are engaged in a civil action which may have a bearing on this proceeding. Accordingly, Gebr. Brasseler GmbH & Co. KG hereby requests suspension of this proceeding pending a final determination of the civil action. Trademark Rule 2.117.

Gebr. Brasseler GmbH & Co. KG has secured the express consent of all other parties to this proceeding for the suspension requested herein.

Gebr. Brasseler GmbH & Co. KG has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Respectfully submitted,
/Charles W. Forlidas/
Charles W. Forlidas
cforlidas@millermartin.com
ryoung@huntermaclean.com
03/07/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Trademark Trial and Appeal Board

In the matter of Application Serial. No. 77/039,633
TM: CERAPOST

BRASSELER USA, INC.,)	
)	
Opposer,)	
)	Opposition No. 91181841
v.)	
)	
GEBR. BRASSELER GMBH & CO., KG,)	
)	
Applicant.)	

JOINT MOTION TO SUSPEND OPPOSITION

Opposer, Brasseler USA, Inc. ("Opposer"), and applicant, Gebr. Brasseler GmbH & Co., KG ("Applicant"), hereby jointly request that the Board suspend the above-identified opposition on the ground that a prior-filed and currently pending civil action between the parties may be dispositive of this action.

As identified by Opposer at the time the instant opposition proceeding was filed, Opposer and Applicant are currently parties to litigation in the United States District Court for the Southern District of Georgia involving issues in common with these Board proceedings. That action, Peter Brasseler Holdings, L.P. and Brasseler USA, Inc. v. Gebr. Brasseler GmbH & Co. KG, KOBRA, Inc., d/b/a KOMET USA, and KOMET USA, LLC, Civil Action No. 04:07-CV-00025 (S.D. Ga.), was filed on February 22, 2007 (hereinafter the "Civil Action"). In the Civil Action, Applicant, a German-based manufacturer, and Opposer are both claiming ownership of a number of trademarks, including the mark at issue in this opposition. The parties

are also involved in a number of other cases in various courts related to their past relationship and current conduct of business.

The Board's inherent power to set the schedule of its cases includes the power to stay proceedings. This power has been codified at 37 C.F.R. § 2.117 entitled, "Suspension of Proceedings." Because the final determination of the pending Civil Action between the parties will have a bearing on the issues before the Board, Opposer and Applicant jointly request that the present proceeding be suspended pending the outcome of the Civil Action. Because the parties are stipulating to this suspension, the parties request that the Board waive its usual practice of requiring the pleadings in the Civil Action to be filed. The pleadings in the Civil Action are quite voluminous, comprising 169 docket entries to date.

Accordingly, the parties respectfully request that the Board suspend the present case pending the termination of the Civil Action.

Respectfully submitted,

MILLER & MARTIN PLLC

By: Charles W. Forlidas

Charles W. Forlidas
Reg. No. 41,758
Attorney for the Applicant
Gebr. Brasseler GmbH & Co., KG
1170 Peachtree St. NE, Suite 800
Atlanta, GA 30309-7649
(404) 962-6100
Fax: (404) 962-6300

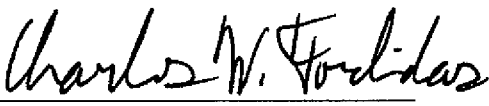
HUNTER, MACLEAN, EXLEY
& DUNN, P.C.

By: Rachel C. Young

Rachel C. Young
Georgia Bar No. 747,407
Attorney for the Opposer
Brasseler USA, Inc.
P.O. Box 9848
Savannah, GA 31412
(912) 236-0261
Fax: (912) 236-4936

CERTIFICATE OF ELECTRONIC FILING

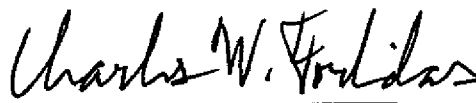
I hereby certify that the preceding Joint Motion To Suspend Opposition is being electronically filed with the United States Patent Office through its ESTTA electronic filing system on this 7th day of March, 2008.


Charles W. Forlidas

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Joint Motion To Suspend Opposition has been served on Opposer's attorney by mailing a copy thereof via First Class Mail, postage prepaid, on this 7th day of March, 2008 addressed as follows:

Rachel C. Young
Hunter, Maclean, Exley & Dunn, P.C.
P.O. Box 9848
Savannah, GA 31412

By: 
Charles W. Forlidas